

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AUTHEN TEC, INC.,

Plaintiff,

v.

ATRUA TECHNOLOGIES, INC.,

Defendant.

No. C 08-1423 PJH

**ORDER GRANTING REQUEST TO
AMEND RESPONSIVE CLAIM
CONSTRUCTION BRIEF IN PART,
AND DENYING IT IN PART**

Before the court is the administrative motion of defendant Atrua Technologies, Inc. ("Atrua"), for an order permitting the filing of an amended responsive claims construction brief. Atrua claims that it seeks to correct "two very minor mistakes made in its brief." In fact, it appears that Atrua seeks to modify the proposed constructions of two of the disputed terms that the parties seek to have construed by the court.

The two terms at issue are "electric field sensing electrode" and "analog-to-digital conversion means having a controllable range and for converting analog signals from said array of fingerprint sensing elements to digital signals based upon the range" (or "analog-to-digital conversion means" for short). Atrua claims that the purpose of the proposed change to "electric field sensing electrode" is "to make the definition more grammatically correct," and that the purpose of the proposed change to "analog-to-digital conversion means" is "to conform to the specifications and to conform to the definition used by Atrua in the Joint Claims Construction and Prehearing Statement."

However, nowhere in its request does Atrua state what precise "corrections" it seeks

1 to make. Instead, Atrua simply attaches, as exhibits to the declaration of its attorney,
2 James Li, a copy of the proposed amended brief, and a copy of a red-lined version of the
3 proposed amended brief (which is unreadable because of the size of the font in the
4 chambers copy presented to the court). Presumably Atrua expects the court to search
5 through the entire proposed amended brief, and then to search through the brief as
6 originally filed, and compare the amended brief to the original filed brief, in order to
7 determine what changes Atrua seeks to make. On this basis alone, the court is inclined to
8 deny the motion as incomprehensible.

9 Plaintiff AuthenTec, Inc. ("AuthenTec") does not oppose the motion as to "electric
10 field sensing electrode," but does oppose the motion as to "analog-to-digital conversion
11 means." AuthenTec asserts that the requested amendment to "analog-to-digital conversion
12 means" represents a change from the position that Atrua took in the Joint Claims
13 Construction Statement, and should not be permitted for that reason. AuthenTec has
14 undertaken to set forth the original language along with the proposed amendment, and
15 based on the showing made by AuthenTec, the court agrees that the motion should be
16 DENIED as to "analog-to-digital conversion means." The court will permit the amendment
17 of the brief as to "electric field sensing electrode."¹

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19 **IT IS SO ORDERED.**

20 Dated: March 26, 2009



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PHYLLIS J. HAMILTON
United States District Judge

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28 ¹ In addition, the parties should note that they will be bound at the claims construction
hearing to the positions set forth in their briefs as filed.